

## **REMARKS**

### **I. Introduction**

Claims 1 to 38, and 40 to 43 are currently pending in the present application. Claims 1 to 38, and 40 to 43 stand rejected. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

### **II. Rejection of Claims 1, 2, 5 to 11<sup>1</sup>, 14<sup>2</sup> to 16, 18, 19, 24 to 30, 33 to 36, 41, and 43 Under 35 U.S.C. § 103(a)**

Claims 1, 2, 5 to 11, 14 to 16, 18, 19, 24 to 30, 33 to 36, 41, and 43 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of International Patent Application No. WO 99/66726 ("Dureau") and U.S. Patent No. 6,088,688 ("Crooks et al."). Applicants respectfully submit that the Examiner's proposed combination of Dureau and Crooks et al. does not render unpatentable the present claims for at least the following reasons.

To reject a claim as obvious under 35 U.S.C. § 103, the prior art must disclose or suggest each claim feature and it must also provide a motivation or suggestion for combining the features in the manner contemplated by the claim. (*See Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 934 (Fed. Cir. 1990), *cert. denied*, 111 S. Ct. 296 (1990); *In re Bond*, 910 F.2d 831, 834 (Fed. Cir. 1990)). Thus, the "problem confronted by the inventor must be considered in determining whether it would have been obvious to combine the references in order to solve the problem," *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 679 (Fed. Cir. 1998).

Claim 1 recites "a collector configured to collect the interactive output from each of the plurality of subscribers and to store the collected interactive media output as a flat file." Neither Dureau, nor Footer et al., nor their combination, teaches this feature of Applicant's claim 1. The Final Office Action admits that Dureau does not disclose a collector configured to store collected interactive media output as a flat file, and instead refers to column 19, lines 1 to 27 of Crooks et al. as allegedly disclosing this feature. However, the Final Office Action misrepresents the disclosure of Crooks et al. The cited

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<sup>1</sup> Although the rejection caption indicates that claim 4 is included in this rejection, this designation appears to be a mistake, since the Office Action separately rejects claim 4 in view of an additional reference. Although the rejection caption does not indicate that claim 11 is included in this rejection, this omission appears to be a mistake since the substantive arguments address claim 11.

<sup>2</sup> Although the rejection caption does not indicate that claim 14 is included in this rejection, this omission appears to be a mistake since the substantive arguments address claim 14.

section twice refers to a flat file. Both of the references to the flat file refer to a manner in which data is transmitted from a data logging device to a host computer for processing. *See* column 18, line 65 to column 19, line 7, and column 19, lines 17 to 26. Each data logging device is indicated by Crooks et al. to be associated with a particular measuring device of a customer's facility site, *i.e.*, the flat file includes data that pertains to a ***single*** customer. *See* column 18, lines 30 to 50. The section cited by the Final Office Action does not refer to storing data by collectors that are configured to collect output from each of a ***plurality of subscribers***. Crooks et al. are silent regarding how the combined files of the retrieved from the various data logging devices are stored at the host computer. Accordingly, it is respectfully submitted that Crooks et al. do not disclose or suggest a collector configured to collect interactive output from each of a plurality of subscribers and to store the collected output as a flat file. Further, one skilled in the art would not look to the teachings of Crooks et al., regarding storing data of a ***single*** measuring device of a ***single*** customer site, for application of such teachings to the storing of data collected from a plurality of subscribers in a flat file. Accordingly, the combination of Dureau and Crooks et al. does not disclose or suggest a collector configured to collect interactive output from each of a plurality of subscribers and to store the collected output as a flat file.

Claims 14 recites "collecting the interactive output in a collector operably connected to said subscriber network and storing the interactive output in said collector as a flat file." As set forth above in support of the patentability of claim 1, the combination of Dureau and Crooks et al. does not disclose or suggest this feature.

Claim 15 recites "collecting interactive output from a plurality of subscribers . . . ; aggregating the collected output in the provided collection and aggregation system; and configuring and arranging the collection and aggregation system so that said collecting and aggregating is performed in real time." The Final Office Action asserts that claim 15 is rejected "for similar reasons as stated above." Final Office Action, page 6, lines 1-2. None of the referenced arguments addresses this feature. Indeed, it is respectfully submitted that the combination of Dureau and Crooks et al. does not disclose or suggest configuring and arranging a collection and aggregation system so that collecting and aggregating is performed in real time.

The Final Office Action addresses a real time feature recited in claim 4, which recites processing by a collector and aggregator network so that collected and aggregated interactive output is transmitted through the system in real time. With respect to claim 4, the Final Office Action admits that the combination of Dureau and Crooks et al. does not disclose

this feature, and instead refers to paragraph 8 of U.S. Patent Application Publication No. 2002/0129372 (“Footer et al.”) as allegedly disclosing this feature. As set forth in Applicants’ Response, filed January 23, 2006, the cited paragraph refers to communication of data from a customer’s IRD to a communication server. The combination of Dureau, Crooks et al., and Footer et al. does not disclose or suggest performance of collection and aggregation in real time, as recited in claim 15. The Final Office Action does not address this argument. Applicants request that the Examiner address this argument in the next Office communication.

Claim 24 recites a communications message server that normalizes response requests received at an interactive media subscriber network to which the server is connected subsequent to the receipt of the requests at the subscriber network. As set forth in Applicants’ Response, filed January 23, 2006, formatting that might be performed at the set-top box in Dureau does not disclose, or even suggest, a message server for normalizing requests after the requests are received by a network from a plurality of access devices. Crooks et al. are not relied upon as disclosing or suggesting this feature. Indeed, it is respectfully submitted that Crooks et al. do not disclose or suggest this feature. Accordingly, the combination of Dureau and Crooks et al. does not disclose or suggest all of the features recited in claim 24. The Final Office Action does not address this argument. Applicants request that the Examiner address this argument in the next Office communication.

Claim 33 recites “providing an interactive media subscriber network, said subscriber network including a plurality of access devices configured to transmit response requests from one or more subscribers to said subscriber network; parsing and formatting each of the response requests; collecting the formatted response requests as a flat file.” As set forth above in support of the patentability of claim 1, the combination of Dureau and Crooks et al. does not disclose or suggest this feature.

Claim 41 recites “at least one of the n collectors configured to collect and to store as a flat file interactive output from a plurality of the subscribers.” As set forth above in support of the patentability of claim 1, the combination of Dureau and Crooks et al. does not disclose or suggest this feature.

Thus, the combination of Dureau and Crooks et al. does not disclose or suggest all of the features recited in any of claims 1, 14, 15, 24, 33, and 41. It is therefore respectfully submitted that the combination of Dureau and Crooks et al. does not render unpatentable any of claims 1, 14, 15, 24, 33, and 41.

Claims 2, 5 to 11, and 43 ultimately depend from claim 1 and therefore include all of the features recited in claim 1. It is therefore respectfully submitted that the combination of Dureau and Crooks et al. does not render unpatentable these dependent claims for at least the same reasons set forth above in support of the patentability of claim 1. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988) (any dependent claim that depends from a non-obvious independent claim is non-obvious).

Furthermore, claim 5 includes subject matter similar to that of claim 24. It is therefore respectfully submitted that the combination of Dureau and Crooks et al. does not render unpatentable claim 5 additionally for at least reasons similar to those set forth in support of the patentability of claim 24. *Id.*

Claims 16, 18, and 19 ultimately depend from claim 15 and therefore include all of the features recited in claim 15. It is therefore respectfully submitted that the combination of Dureau and Crooks et al. does not render unpatentable these dependent claims for at least the same reasons set forth above in support of the patentability of claim 15. *Id.*

Claims 25 to 30 ultimately depend from claim 24 and therefore include all of the features recited in claim 24. It is therefore respectfully submitted that the combination of Dureau and Crooks et al. does not render unpatentable these dependent claims for at least the same reasons set forth above in support of the patentability of claim 24. *Id.*

Claims 34 to 36 ultimately depend from claim 33 and therefore include all of the features recited in claim 33. It is therefore respectfully submitted that the combination of Dureau and Crooks et al. does not render unpatentable these dependent claims for at least the same reasons set forth above in support of the patentability of claim 33. *Id.*

It is therefore respectfully requested that the obviousness rejections of claims 1, 2, 5 to 11, 14 to 16, 18, 19, 24 to 30, 33 to 36, 41, and 43 be withdrawn.

### **III. Rejection of Claim 4 Under 35 U.S.C. § 103(a)**

Claim 4 was rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau, Crooks et al., and Footer et al. Applicants respectfully submit that the Examiner's proposed combination of Dureau, Crooks et al., and Footer et al. does not render unpatentable the present claims for at least the following reasons.

Claim 4 depends from claim 1 and therefore includes all of the features recited in claim 1. Footer et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Crooks et al. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., and Footer et al. does not render unpatentable these

dependent claims for at least the same reasons set forth above in support of the patentability of claim 1. *Id.*

It is therefore respectfully requested that the obviousness rejections of claim 4 be withdrawn.

**IV. Rejection of Claims 12, 13, 20 to 23, 31, 32, 37, and 38 Under 35 U.S.C. § 103(a)**

Claims 12, 13, 20 to 23, 31, 32, 37, and 38 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau, Crooks et al., Footer et al., and U.S. Patent No. 6,160,989 (“Hendricks et al.”). Applicants respectfully submit that the Examiner’s proposed combination of Dureau, Footer et al., and Hendricks et al. does not render unpatentable claims 12, 13, 20 to 23, 31, 32, 37, and 38 for the following reasons.

Claim 22 recites “an interactive media subscriber network, said subscriber network receiving the interactive output from a plurality of access devices; at least one collector operably connected to said subscriber network that collects the interactive output from said subscriber network and stores the interactive output as a flat file.” As set forth above in support of the patentability of claim 1, the combination of Dureau and Crooks et al. does not disclose or suggest this feature. Neither Footer et al. nor Hendricks et al. are relied upon for correcting this deficiency of the combination of Dureau and Crooks et al. Indeed, it is respectfully submitted that Footer et al. and Hendricks et al. do not correct this deficiency. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., Footer et al., and Hendricks et al. does not render unpatentable claim 22.

Claims 12 and 13 ultimately depend from and therefore include all of the features recited in claim 1. As set forth above in support of the patentability of claim 22, the combination of Dureau, Crooks et al., Footer et al., and Hendricks et al. does not disclose or suggest all of the features recited in claim 1. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., Footer et al., and Hendricks et al. does not render unpatentable either of claims 12 and 13, which ultimately depend from claim 1. *Id.*

Claims 20 and 21 depend from and therefore include all of the features recited in claim 15. As set forth above in support of the patentability of claim 15, the combination of Dureau and Crooks et al. does not disclose or suggest all of the features recited in claim 15. It is respectfully submitted that Footer et al. and Hendricks et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Crooks et al. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., Footer et al.,

and Hendricks et al. does not render unpatentable claims 20 and 21, which depend from claim 15. *Id.*

Claim 23 depends from and therefore includes all of the features recited in claim 22. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., Footer et al., and Hendricks et al. does not render unpatentable claim 23 for at least the same reasons set forth above in support of the patentability of claim 22. *Id.*

Claims 31 and 32 ultimately depend from and therefore include all of the features recited in claim 24. As set forth above in support of the patentability of claim 24, the combination of Dureau and Footer et al. does not disclose or suggest all of the features recited in claim 24. Neither Footer et al. nor Hendricks et al. are relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Crooks et al. Indeed, it is respectfully submitted that Footer et al. and Hendricks et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Crooks et al. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., Footer et al., and Hendricks et al. does not render unpatentable claims 31 and 32, which ultimately depend from claim 24. *Id.*

Claims 37 and 38 depend from and therefore include all of the features recited in claim 33. As set forth above in support of the patentability of claim 33, the combination of Dureau and Crooks et al. does not disclose or suggest all of the features recited in claim 33. Neither Footer et al. nor Hendricks et al. are relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Crooks et al. Indeed, it is respectfully submitted that Footer et al. and Hendricks et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Crooks et al. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., Footer et al., and Hendricks et al. does not render unpatentable claims 37 and 38, which depend from claim 33. *Id.*

It is therefore respectfully requested that the obviousness rejections of claims 12, 13, 20 to 23, 31, 32, 37, and 38 be withdrawn.

**V. Rejection of Claims 3, 17, 40, and 42 Under 35 U.S.C. § 103(a)**

Claims 3, 17, 40, and 42 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Dureau, Crooks et al.<sup>3</sup>, and U.S. Patent No. 6,714,985 (“Malagrino et al.”) (incorrectly referred to by the Examiner as “Gai”). Applicants

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<sup>3</sup> Although the rejection caption does not refer to Crooks et al., Applicants assume that the Examiner intended to reject these claims in view of the combination of Dureau, Crooks et al., and Malagrino et al.

respectfully submit that the combination of Dureau, Crooks et al., and Malagrino et al. does not render unpatentable claims 3, 17, 40, and 42 for the following reasons.

Claim 3 ultimately depends from and therefore includes all of the features recited in claim 1. As set forth above in support of the patentability of claim 1, the combination of Dureau and Crooks et al. does not disclose or suggest all of the features recited in claim 1. Malagrino et al. are not relied upon for correcting the deficiencies noted above with respect to the combination Dureau and Crooks et al. Indeed, it is respectfully submitted that Malagrino et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Crooks et al. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., and Malagrino et al. does not render unpatentable claim 3, which ultimately depends from claim 1. *Id.*

Claim 17 ultimately depends from and therefore includes all of the limitations of claim 15. As set forth above in support of the patentability of claim 15, the combination of Dureau and Crooks et al. does not disclose or suggest all of the features recited in claim 15. Malagrino et al. are not relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Crooks et al. Indeed, it is respectfully submitted that Malagrino et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Crooks et al. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., and Malagrino et al. does not render unpatentable claim 17, which ultimately depends from claim 15. *Id.*

Claims 40 and 42 depend from and therefore include all of the features recited in claim 41. As set forth above in support of the patentability of claim 41, the combination of Dureau and Crooks et al. does not disclose or suggest all of the features recited in claim 41. Malagrino et al. are not relied upon for correcting the deficiencies noted above with respect to the combination of Dureau and Crooks et al. Indeed, it is respectfully submitted that Malagrino et al. do not correct the deficiencies noted above with respect to the combination of Dureau and Crooks et al. It is therefore respectfully submitted that the combination of Dureau, Crooks et al., and Malagrino et al. does not render unpatentable claims 40 and 42, which depend from claim 41. *Id.*

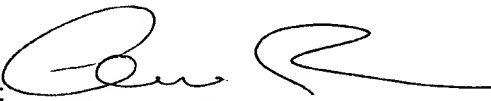
It is therefore respectfully requested that the obviousness rejections of claims 3, 17, 40, and 42 be withdrawn.

**VI. Conclusion**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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By: 

Andrew L. Reibman  
Reg. No. 47,893  
KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200  
**CUSTOMER NO. 26646**